



Vermont Health Access
Pharmacy Benefit Management Program

PHARMACY ALERT!

New Federal Medicaid Law Regarding Tamper-Resistant Prescription Drug Pads

Section 7002(b) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery and Iraq Accountability Appropriations Act of 2007 sets requirements regarding the use of tamper-resistant prescription drug pads in Medicaid. This was signed into law on May 25, 2007.

The Centers for Medicare and Medicaid Services has indicated that as of October 1, 2007, the following conditions apply for any Medicaid program reimbursement:

- All written prescriptions for **outpatient covered drugs** must be written on **tamper-resistant prescription paper**.*
- To be considered tamper-resistant as of October 1, 2007, prescription paper must contain one of the following three characteristics:
 - 1) one or more industry-recognized features designed to **prevent unauthorized copying** of a completed or blank prescription form;
 - 2) one or more industry-recognized features designed to **prevent the erasure or modification** of information written on the prescription by the prescriber;
or
 - 3) one or more industry-recognized features designed to **prevent the use of counterfeit prescription drug forms**.

As of October 1, 2008, prescription paper must contain all of these characteristics to be considered tamper-resistant.

Important Points:

- Faxed prescriptions, electronic prescriptions, and prescriptions called into the pharmacy are considered tamper-resistant. If a written prescription seems questionable, call the prescriber and ask for verbal instructions or for a faxed or electronic script.
- This requirement is applicable regardless of whether Medicaid is the primary or secondary payer of the prescription being filled.
- This requirement is applicable even if the patient is found eligible for Medicaid after the date of service.
- This requirement is applicable for covered over-the-counter drugs.
- Under emergency circumstances, the receipt of a compliant written prescription within 72 hours after the fill date is acceptable.
- Drugs provided in nursing facilities, intermediate care facilities for the mentally retarded, and other residential institutional settings **are not excluded** from this requirement.
- This requirement does not apply to refills for written prescriptions presented to the pharmacy prior to October 1, 2007.

Important Audit Information

CMS requires that state Medicaid agencies audit to ensure pharmacy compliance with this regulation. Federal auditors may audit state audit samples. Documentation of compliance will be necessary.

- Please be sure that you accept written prescriptions only when they are compliant with the federal requirements.
- Please be sure you retain evidence of faxed, electronic, and telephoned prescriptions.
- Please be sure that you accurately identify the prescriber when submitting claims to OVHA. Misreporting the prescriber is an indication that the prescription is questionable. When in doubt, call the prescriber's office.
- **If it is determined that a payment was made on a claim for a prescription that was not in compliance with the Medicaid tamper-resistant prescription requirements, OVHA must recover the payment.**